

## **REMARKS**

By this amendment, Applicants amend claims 1, 12, 20, 22, 25, 35, 36, cancels claim 9 without prejudice or disclaimer, and add new claims 39-45. Accordingly, claims 1, 4-6, 8, 10-12, 15-17, 19, 21, 22, 25, 28, 29, and 35-45 are now pending in this application.

Applicants thank the Examiner for granting an interview with Applicants' undersigned representative on October 16, 2007. During the interview, the rejections under 35 U.S.C. §§ 101, 112, and 103 were discussed. Furthermore, the Examiner indicated the claim amendments submitted herein would likely overcome the rejections under 35 U.S.C. §§ 101 and 112.

In the Final Office Action<sup>1</sup>, the Examiner rejected claims 1, 12, and 25 under 35 U.S.C. § 112, second paragraph, as being indefinite; rejected claims 1, 4-22, 25, 28, 29, and 35-38 under 35 U.S.C. § 101 as allegedly being drawn to non-statutory subject matter; and rejected claims 1, 4-12, 15-17, 19, 21, 22, 25, 28, 29, and 35-38 under 35 U.S.C. § 103(a) as being unpatentable over Sankaran et al. (U.S. Patent No. 5,832,484) in view of Bangel et al. (U.S. Patent No. 6,901,401).

### **I. REJECTION OF CLAIMS 1, 12, AND 15 UNDER § 112, ¶2**

The Examiner contends that the word "attempting" renders the claims indefinite because it is not clear whether the attempting is continuous. See Final Office Action at

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<sup>1</sup> The Final Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Final Office Action.

page 2. Although Applicants respectfully traverse the rejection of claims 1, 12, and 15 under 35 U.S.C. § 112, second paragraph, as being indefinite, Applicants have amended claims 1, 12, and 15 for further clarity. In particular, Applicants have amended the claims to recite “making an attempt” to address the Examiner’s concerns. Accordingly, Applicants request that the Examiner withdraw the rejection of claims 1, 12, and 15 under 35 U.S.C. § 112, second paragraph.

## **II. REJECTION OF CLAIMS 1, 4-22, 25, 28, 29 AND 35-38 UNDER § 101**

Applicants respectfully traverse the rejection of claims 1, 4-22,<sup>2</sup> 25, 28, 29, and 35-38 under 35 U.S.C. § 101 as allegedly being drawn to non-statutory subject matter.

Independent claim 1 recites a method including, in part, “detecting, by a computer, a new query.” Accordingly, Applicants submit that claim recites statutory subject. Claims 4-8, 10, 11, 28, and 29 depend from claims 1 and 25 and, accordingly, are draw to statutory subject matter at least due to their dependence. Claim 9 is cancelled and its rejection is therefore moot.

Independent claim 12 recites a “computer readable-medium storing program instructions for performing a method of authorizing access to a human resources database.” Applicants note that “a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program’s functionality to be realized, and is thus statutory.” MPEP § 2106(IV)(B)(1)(a). Applicants also note that “computer programs embodied in a

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<sup>2</sup> Applicants note that claims 13 and 14 were previously canceled.

tangible medium, such as floppy diskettes, are patentable subject matter under 35 U.S.C. § 101 and must be examined under 35 U.S.C. §§ 102 and 103.” In re Beauregard, 53 F.3d 1583 (Fed. Cir. 1995). Accordingly, Applicants submit that claim 12 is drawn to statutory subject matter for at least the above reasons. Claims 15-17, 19, 21, and 22 depend from claim 12 and, accordingly, are drawn to statutory subject matter at least due to their dependence.

Independent claim 25 has been amended to recite, in part, a “processor” and a “memory.” Furthermore, independent claim 35 meets the requirements of 35 U.S.C. § 101 for at least the reasons given above regarding independent claim 1. Claims 36-38 depend from independent claim 35 and, accordingly, recite statutory subject matter at least due to their dependence.

### **III. REJECTION OF CLAIMS UNDER § 103(a)**

Applicants respectfully traverse the rejection of claims 1, 4-12, 15-17, 19, 21, 22, 25, 28, 29, and 35-38 under 35 U.S.C. § 103(a) as being unpatentable over Sankaran et al. (U.S. Patent No. 5,832,484) in view of Bangel et al. (U.S. Patent No. 6,901,401). A *prima facie* case of obviousness has not been established.

The key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. Such an analysis should be made explicit and cannot be premised upon mere conclusory statements. *See M.P.E.P. § 2142, 8th Ed., Rev. 6 (Sept. 2007)*. “A conclusion of obviousness requires that the reference(s) relied upon be enabling in that it put the public in possession of the claimed invention.” *M.P.E.P. § 2145*. Furthermore, “[t]he

mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art” at the time the invention was made. *M.P.E.P. §2143.01(III), internal citation omitted*. Moreover, “[i]n determining the differences between the prior art and the claims, the question under 35 U.S.C. § 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious.” *M.P.E.P. § 2141.02(I)*, internal citations omitted (emphasis in original). In this application, a *prima facie* case of obviousness has not been established because the Examiner has not articulated a reason why the applied references would render obvious the claims.<sup>3</sup>

Independent claim 1, as amended, recites a method for authorizing access to a database including, among other steps, “determining whether an identifier associated with the set of database records matches an identifier of a user that submitted the new query.” Sankaran et al. and Bangel et al., whether taken alone or in any proper combination, do not teach or suggest at least this element of claim 1.

In the Final Office Action, the Examiner admits Sankaran et al. does not teach “checking authorization.” See page 4. However, the Examiner contends that Bangel et al. teaches determining “write authorization.” See Office Action at page 8. Even if the Examiner’s contention is correct, *arguendo*, Bangel et al. does not compensate for the deficiencies of Sankaran et al. for at least the following reasons.

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<sup>3</sup> Applicants cited a USPTO Memorandum from Margaret A. Focarino, Deputy Commissioner for Patent Operations, May 3, 2007, page 2, in the last response. Applicants traverse the allegation by the Examiner at page 7 of the Final Office Action regarding the memorandum. In particular, Applicants note that the cited memorandum is a publicly available document, which was made available to provide guidance to Examiners and the public as to the Office’s policy for applying 103 rejections in view of the Supreme Court’s decision in the *KSR* case. The memorandum is not a confidential document as the Examiner purports.

According to the Bangel et al. system, a “determination is made as to whether the user name was found as a user authorized to have local access to the database.” See col. 4, lines 9-11. Thus, while Bangel et al. appears to involve checking whether a user name is authorized to access a database, Bangel et al. does not render obvious at least “determining whether an identifier associated with the set of database records matches an identifier of a user that submitted the new query,” as recited in claim 1. Accordingly, Bangel et al. does not compensate for the admitted deficiencies of Sankaran et al. for at least the foregoing reasons. Moreover, since Bangel et al. does not teach or suggest the claimed “determining,” it follows that the prior art also does not teach or suggest “determining whether the user is authorized to acquire a new lock on the set of database records, wherein the user is authorized if the identifier associated with the set of database records does not match the identifier of the user,” as further recited in claim 1.

In view of the reasoning set forth above, the Examiner has failed to articulate a reason why Sankaran et al. and Bangel et al., whether taken alone or in any proper combination, would render obvious claim 1 to one of ordinary skill in the art. Therefore, a *prima facie* case of obviousness has not been established for claim 1 and the Examiner should withdraw the rejection of the claim under 35 U.S.C. § 103(a).

Independent claims 12, 25, and 35, although of a different scope from claim 1 and each other, have been amended to include similar recitations as claim 1. Accordingly, a *prima facie* case of obviousness has not been established for claims 12, 25, and 35 for at least the reasons discussed above in connection with claim 1. Claims 4-8, 10, 11, 15-22, 28, 29, and 35-38 depend from independent claims 1, 12, 25, and

35. Accordingly, a *prima facie* case of obviousness has not been established for claims 4-11, 15-22, 28, 29, and 35-38 at least due to their dependence. Therefore, the Examiner should also withdraw the rejection of claims 4-8, 10, 11, 15-22, 28, 29, and 35-39 under 35 U.S.C. § 103(a).

Furthermore, dependent claim 10 further recites “determining whether the user is authorized includes determining whether the user is organizationally authorized” and dependent claim 11 further recites “determining whether the user is authorized includes determining includes whether the user is currently authorized.” As discussed above, according to the Bangel et al. system, a “determination is made as to whether the user name was found as a user authorized to have local access to the database.” See col. 4, lines 9-11. Such a teaching, however, does not render obvious these elements of claims 10 and 11. Moreover, the Examiner has failed to articulate a reason why Sankaran et al. and Bangel et al., whether taken alone or in any proper combination, would render obvious claims 10 and 11 to one of ordinary skill in the art. Therefore, a *prima facie* case of obviousness has not been established for claims 10 and 11 for at least this additional reason.

#### **VI. NEW CLAIMS 39-45**

New claims 39 and 40 depend from allowable independent claim 35 and, accordingly, are allowable at least due to their dependence. New independent claims 41, and 44, although a different scope from each other and allowable independent claim 1, include recitations of a scope similar to those discussed above. Accordingly, claims 41, and 44, are allowable at least for the reasons given above. Furthermore, new

claims 42 and 43 are allowable at least due to their dependence from new independent claim 41. New independent claim 45, which recites, in part, "determining whether a user that submitted the new query is authorized to acquire a new lock on the set of database records, wherein the user is authorized if the user does not have a conflict of interest when the set of database records do not personally pertain to the user," is also not obvious in view of the cited prior art. Therefore, for at least these reasons, Applicants request that the Examiner allow new claims 39-45.

### **CONCLUSION**

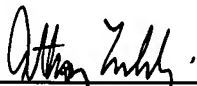
In view of the foregoing, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: October 25, 2007

By:   
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